



## Rule Fact Sheet

January 16, 2007

### AMENDMENTS TO RULES AT 329 IAC 10 CONCERNING CONSTRUCTION/DEMOLITION WASTE AND CERTAIN PERMIT REQUIREMENTS #05-296(SWMB)

#### Overview

This rulemaking amends 329 IAC 10 concerning unrecognizable, crushed construction/demolition waste and changes to permitting requirements mandated under Senate Enrolled Act 279-2005. Proposed amendments to Article 10 also relate to New Source Performance Standards for the purpose of maintaining consistency with state and federal air pollution regulations; and clarification of municipal solid waste landfill (MSWLF) owner/operator responsibilities for closure and post closure cost estimates for gas extraction systems.

#### Citations Affected

Amends 329 IAC 10.

#### Affected Persons

This rulemaking affects construction/demolition landfills. Indiana currently has nine (9) C/D landfills. Owners, operators, or contractors of any construction/demolition landfill will be required to inspect incoming waste to make sure that it meets the requirement for the waste to be easily recognizable and not completely crushed prior to disposal in the landfill. This rulemaking also affects owners or operators of MSWLFs as it specifies closure and post closure responsibilities for gas extraction systems; and solid waste land disposal applicants and permittees due to other changes. Indiana currently has thirty-five (35) MSWLFs.

#### Reason(s) for the Rule

This rulemaking is required in part by state statute. The permitting requirement changes regarding good character are mandated by SEA

279-2005. Other amendments to this rule propose that construction/demolition waste must be easily recognizable in order to be disposed of in a construction/demolition landfill. This amendment is needed so that Indiana can avoid environmental and health problems that crushed construction/demolition waste has the potential of causing.

#### Economic Impact of the Rule

This rulemaking should have little or no economic effect on construction/demolition landfills regarding the acceptance of easily recognizable construction/demolition waste, or on any solid waste land disposal facilities regarding the changes to the permit requirements.

#### Benefits of the Rule

The proposed amendments regarding construction/demolition waste offer a simple solution which has worked well in Ohio to protect the health of the citizens, as well as to lessen the ramifications of huge quantities of pulverized construction/demolition waste for government officials. Other amendments implement state statute and federal regulatory requirements.

#### Description of the Rulemaking Project

An amendment to 329 IAC 10-9-3 is proposed that provides that construction/demolition waste must be easily recognizable as such, and not crushed, in order to be disposed of in a construction/demolition landfill. This amendment is needed in the Indiana solid waste rules because some businesses have been

completely crushing large volumes of construction/demolition waste and shipping it by railcar to some of Indiana's neighboring states, causing environmental and health problems that Indiana should avoid. The construction/demolition landfills in our neighboring states, much like Indiana's landfills, are not constructed to receive such large volumes of dense waste. These types of landfills are not constructed with either leachate or gas collection lines, or a plastic liner. The disposal of large volumes of dense waste, specifically crushed wall board, has caused hydrogen sulfide to be produced at these landfills sometimes to the extent that nearby schools and businesses have had to be temporarily closed, and the integrity of the landfill has been compromised.

This rulemaking also proposes to amend the permitting requirements in 329 IAC 10 to include statutory revisions that were passed by the Indiana Legislature in Senate Enrolled Act 279-2005 regarding streamlining good character requirements.

This rulemaking will also clarify municipal solid waste landfill owner/operator responsibilities for closure and post closure cost estimates for gas extraction systems.

In 329 IAC 10-9-3, IDEM has further attempted to clarify the meaning of the term "crushed or ground" as it relates to demolition waste, based on the comments from the board.

### **Scheduled Hearings**

First Public Hearing: July 18, 2006.

First Public Hearing Continued: September 19, 2006.

Second Public Hearing: January 16, 2007.

### **Consideration of Factors Outlined in Indiana Code 13-14-8-4**

Indiana Code 13-14-8-4 requires that in adopting rules and establishing standards, the board shall take into account the following:

- 1) All existing physical conditions and the character of the area affected.
- 2) Past, present, and probable future uses of the area, including the character of the uses of surrounding areas.
- 3) Zoning classifications.

4) The nature of the existing air quality or existing water quality, as appropriate.

5) Technical feasibility, including the quality conditions that could be reasonably be achieved through coordinated control of all factors affecting the quality.

6) Economic reasonableness of measuring or reducing any particular type of pollution.

(7) The right of all persons to an environment sufficiently uncontaminated as not to be injurious to:

- (A) human, plant animal, or aquatic life; or
- (B) the reasonable enjoyment of life and property.

### **Consistency with Federal Requirements**

The rules as proposed to be amended are consistent with federal laws.

### **Rulemaking Process**

The first step in the rulemaking process is a first notice published in the *Indiana Register*. This includes a discussion of issues and opens a first comment period. The second notice is then published which contains the comments and the department's responses from the first comment period, a notice of first meeting/hearing, and the draft rule. The Solid Waste Management Board holds the first hearing and public comments are heard. The proposed rule is published in the *Indiana Register* after preliminary adoption along with a notice of second hearing. If the proposed rule is substantively different from the draft rule, a third comment period is required. The second public hearing is held and public comments are heard. Once final adoption occurs, the rule becomes effective 30 days after filing with the Indiana Register.

### **IDEM Contact**

Additional information regarding this rulemaking action can be obtained from Kiran Verma, Rules, Planning and Outreach Section, Office of Land Quality, (317) 232- 8899 or (800) 451-6027 (in Indiana). Technical information regarding this rulemaking action can be obtained from Daniela Klesmith, Engineering Technical Advisor, Permits Branch, Office of Land Quality, (317) 232-8840 or (800) 451-6027 (in Indiana).

